

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )  
Plaintiff, )  
vs. ) 4:05-CV-00329-TCK-SAJ  
TYSON FOODS, INC., et al, )  
Defendants. )

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VOLUME I OF THE VIDEOTAPED  
DEPOSITION OF BERNARD ENGEL, PhD, produced as a  
witness on behalf of the Defendants in the above  
styled and numbered cause, taken on the 8th day of  
January, 2009, in the City of Tulsa, County of  
Tulsa, State of Oklahoma, before me, Lisa A.  
Steinmeyer, a Certified Shorthand Reporter, duly  
certified under and by virtue of the laws of the  
State of Oklahoma.

**TULSA FREELANCE REPORTERS**  
**918-587-2878**

1 (Whereupon, the deposition began at  
2 9:01 a.m.)

3 VIDEOGRAPHER: We are now on the Record for  
4 the deposition of Dr. Bernard Engel. Today is  
5 January 8th, 2009. The time is 9:01 a.m. Would 09:01AM  
6 counsel please identify themselves for the Record.

7 MR. GARREN: Richard Garren for the State  
8 of Oklahoma.

9 MR. GEORGE: Robert George for the Tyson  
10 defendants, and I have with me Vic Bierman who is a 09:01AM  
11 consultant for the defendants.

12 MR. McDANIEL: Scott McDaniel for Peterson  
13 Farms, Inc.

14 MR. BASSETT: Woody Bassett for the  
15 George's defendants. 09:02AM

16 VIDEOGRAPHER: And on the phone?

17 MR. SANDERS: Bob Sanders for the Cal-Maine  
18 defendants.

19 VIDEOGRAPHER: Thank you. The witness may  
20 be sworn in.

21 BERNARD ENGEL, PhD  
22 having first been duly sworn to testify the truth,  
23 the whole truth and nothing but the truth, testified  
24 as follows:

25 DIRECT EXAMINATION

**TULSA FREELANCE REPORTERS**  
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1       **A**       Well, in that -- there's documentation that  
2       shows Peterson Farms growers applied waste within  
3       the watershed. You know, the model indicates that  
4       that runs off, carries phosphorus. Literature  
5       indicates that when it's land applied, it runs off       04:37PM  
6       and carries phosphorus, carries bacteria, carries  
7       other things. So it does carry a suite of potential  
8       contaminants.

9       **Q**       But you haven't attributed any mass of  
10      phosphorus or any percentage of the total loading to       04:38PM  
11      either Peterson Farms or Tyson Foods or Simmons Food  
12      or George's or any defendant in this case; that's  
13      correct, isn't it?

14               MR. GARREN: Object to form.

15      **A**       Correct. I've not performed that allocation.       04:38PM

16      **Q**       On Page 28 of your report, your summary table  
17      of the sewage treatment plants, Table 6.1.

18      **A**       Okay.

19      **Q**       Why is it you have zero load attributed to the  
20      Watts sewage treatment plant?       04:38PM

21      **A**       It looks like it was not zero in the early  
22      part of my analysis, in the '90s through 2002.  
23      Looks like I'm attributing zero to that from 2003 to  
24      present, so --

25      **Q**       Why is the question?       04:39PM